

Letter of Resolution
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

For the purpose of expediting the review of projects in accordance with Article 14;
Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law

WHEREAS, the New York City Department of Education (DOE) may fund or grant approval for projects with the potential to impact buildings, structures, objects, or sites listed or eligible for listing in the State Register of Historic Places (State Register), and;

WHEREAS, the New York City School Construction Authority (SCA) is required under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law to evaluate in consultation with the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) such Undertakings for potential impacts to resources listed or eligible for listing in the State Register and to avoid, minimize or mitigate adverse impacts to such resources, and;

WHEREAS, the SCA and OPRHP find benefit in establishing alternate procedures to implement Section 14.09 in a manner that will expedite the review of projects by identifying categories of resources that do not meet the criteria for inclusion in the State Register and by specifying categories of proposed actions that do not have the potential to adversely impact Historic Resources;

NOW THEREFORE, the SCA and OPRHP agree to implement the following procedures to facilitate review of DOE funded projects assigned to the SCA while providing full consideration of potential impacts of such Undertakings to the Historic Resources of New York City; projects reviewed in accordance with this Letter of Resolution (LOR) will be considered in compliance with Section 14.09 of the New York State Office of Parks, Recreation and Historic Preservation Law.

1. Applicability and Scope of this LOR:

This LOR applies only to Undertakings subject to Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law. No project requiring review in accordance with Section 106 of the National Historic Preservation Act of 1966, as implemented by the regulations of the Federal Advisory Council on Historic Preservation, "Protection of Historic and Cultural Properties" (36 FCR 800), shall be reviewed under this LOR.

The SCA shall designate an Agency Preservation Officer (APO), who shall serve as a liaison to OPRHP on matters affecting historic preservation.

2. Definitions:

- a. **"State and National Register"** shall mean the New York State and National Register of Historic Places.
- b. **"Historic Resources"** shall mean any building, structure, object, site or landscape feature that meets the criteria for inclusion in the State and National Registers of Historic Places.

- c. **“NR Eligible”** shall mean that a property that meets the criteria for listing on the State and National Register of Historic Places. Detailed submissions will be required for Undertakings at Eligible Historic Resources, unless the work items are listed as exempt in Appendix A of this LOR.
 - d. **“Not Eligible”** will be or shall mean that the school is deemed not eligible for listing on the State and National Register of Historic Places. No further transaction with OPRHP will be required. Another phrase utilized may be similar to “...no properties, including archeological and/or historic resources, listed in or eligible for the New York State and National Register of Historic Places will be impacted by this project.”
 - e. **“Undertaking”** shall mean a project with the potential to impact Historic Resources, and is funded in whole or in part by, and under the direct or indirect jurisdiction of the SCA.
 - f. **“No Adverse Impact”** shall mean that the Undertaking will not negatively impact the historic significance of the school. This determination may be conditional on SCA’s adherence to OPRHP requirements stated in their response to the detailed submission for the specific project.
 - g. **“Agency Preservation Officer”** (APO) shall mean the commissioner, director or chairperson of the SCA, or a representative identified in accordance with the provisions of subdivision 2 of Section 14.05 of the Parks, Recreation and Historic Preservation Law. If the SCA commissioner, director or chairperson chooses to appoint a representative, this representative shall meet the federal qualifications as stated in 36 CFR 61. The qualification of the appointed person shall be submitted to OPRHP for review and acceptance prior to appointment.
 - h. **“Historic Preservation”** shall mean the study, designation, protection, restoration, rehabilitation and use of buildings, structures, historic districts, areas and sites significant in the history, architecture, archeology or culture of this State, its communities or the nation.
 - i. **“Repair”** shall mean an action to restore the mechanical, structural or architectural function of any element of an historic resource using materials and methods compatible with the original function of that element.
 - j. **“Replacement-in-kind”** shall mean the removal of a building or site element and its subsequent replacement with a new element of the same material, matching the same design, form and dimension, color and texture.
 - k. **“Replacement”** shall mean the removal of a building or site element and its subsequent replacement with a material that is typically used per current practice.
 - l. **“Installation”** shall mean the installation of any element with a material that is typically used per current practice.
3. **Resources Exempt** from OPRHP review and comment:

Exempt Resources are categorically identified in this LOR to expedite review by setting aside those buildings or sites that do not meet the criteria for inclusion in the State and National Register. Exempt resources need no further transaction.

Note that when an Undertaking involves site work or other activity that will lead to ground disturbance (beyond the bounds of disturbance from the original construction), that portion of the project shall be submitted for OPRHP's review of possible impacts to archeological resources.

For projects including site acquisition and for Additions to existing buildings, reporting on potential archeological impacts will be part of the SCA's SEQR report, and will be submitted to OPRHP separately from, but will be related to, the new construction project.

- a. Buildings or structures that are 45 years old or less at the time of the scope start of the SCA project shall be exempt from review by OPRHP. Determination of age shall be based on either a Certificate of Occupancy or the date on building dedication plaque. Where the construction date of a resource cannot be established through primary records, a reasonable effort to determine such date through secondary sources (e.g., newspaper accounts, building department records) shall be made by the SCA.

Exception: Proposed work at buildings or structures that are known to be the work of a recognized master architect, designer or builder, or are associated with persons or events significant in the history of the State of New York shall be submitted to OPRHP for review and comment regardless of age.

- b. Buildings or structures over 45 years of age that have been previously evaluated by OPRHP and found to not meet the criteria for inclusion in the State and National Register are exempt from further review. Where the project involves site work or any other activity that will lead to ground disturbance, those portions of the project shall be submitted for OPRHP's review of possible impacts to archeological resources.

Exception: If OPRHP receives information, subsequent to the initial review and determination of "No Impact" that demonstrates that the building should be deemed "Eligible" for listing on the State Register, OPRHP shall notify SCA promptly, and the SCA shall review all work taking into consideration that the structure is an Historic Resource.

4. **Categories of Work Exempt** from OPRHP review and comment:

Appendix A lists certain actions/items of work, often included in projects for existing buildings, that have been determined to have little or no potential to impact the character of historic resources, and are therefore exempt from review by OPRHP. Such exempt items of work shall not be submitted to OPRHP.

Note that Appendix A may be amended as needed to reflect categories of work not initially anticipated to reflect new technologies, or for any reason deemed appropriate by both OPRHP and the SCA. Revisions to Appendix A are effective when initialed by OPRHP and by the SCA.

5. **Resources to be Submitted** (via CRIS) for OPRHP review and comment:

Each Undertaking requiring review and comment by OPRHP must be submitted with the following (at a minimum):

- a. Project description (interior and exterior work as applicable)
- b. Color photos (digital images in JPEG format) illustrating the areas to be affected by the project are to be provided for uploading into the OPRHP's CRIS system.
- c. If ground disturbance (beyond the bounds of disturbance from the original construction) is proposed, include a more detailed site map showing the precise location of the proposed

disturbance. This aspect of the project shall be submitted for OPRHP's review of possible impacts to archeological resources, by the APO or by SCA's SEQR consultant if a SEQR report is required.

- d. Applicable project drawings and specifications (or a statement of compliance with Appendix B of this document), as well as relevant historic drawings, will be provided on a limited basis for a focused and expedited review.

6. Reporting and Communication

The APO shall provide OPRHP with a yearly report of the projects that were not required to be submitted based on the list of project types exempt from OPRHP review listed in Appendix A.

OPRHP and the APO will continue to discuss the Applicability and the Scope of this Letter of Resolution as either agency deems necessary or beneficial. Any programmatic changes will be made upon mutual agreement as an Amendment to the LOR.

OPRHP may monitor Undertakings carried out pursuant to this LOR at their discretion. SCA shall cooperate with OPRHP with respect to such monitoring activities.

7. Term of the Agreement

This LOR shall remain in force for ten years from date of signature. Signatories may extend this LOR upon mutual agreement.

8. Amendment

Notwithstanding any other provisions of this LOR, any signatory to this LOR may request that it be amended, whereupon the signatories will consult to consider such amendment. Any amendment must be in writing and signed by OPRHP and SCA.

9. Termination of Agreement

This LOR may be terminated at the request of any of the signatories to this LOR, within 30 calendar days of written notification to the other signatories. In the event the LOR is terminated, SCA shall consult with OPRHP regarding its responsibilities under Section 14.09 of the New York State Parks, Recreation and Historic Preservation Law for each proposed project.

NEW YORK STATE OFFICE OF PARKS, RECREATION, AND HISTORIC PRESERVATION

BY:  _____ DATE: July 24, 2020

TITLE: John Bonafide, Director, Technical Preservation Services Bureau

NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY

BY:  _____ DATE: 7/24/2020

TITLE: Dominick DeAngelis, Vice President, Architecture and Engineering

TITLE: A Programmatic Agreement
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

APPENDIX "A"

Exempt from OPRHP Review:

The actions/items of work listed in Appendix A have been determined to have little or no potential to impact the character of historic resources, and are therefore exempt from review by OPRHP. Such exempt items of work shall not be submitted to OPRHP.

They are exempt from OPRHP review under the following conditions:

- No character-defining features are altered such as trim and architectural features.
- No ground disturbing work is proposed that will exceed the depth of previous undisturbed soil or will go beyond the bounds of the ground disturbance from the original construction (typically about 10 feet).

See the LOR Section 2, Definitions for a description of the actions included below.

I. Site work exempt from OPRHP review

Repair or Replacement-in-kind (to “match” existing historic elements):

- Field houses and bleachers at athletic fields
- Exterior steps, platforms, stairs, ramps, and area ways
- Flagpoles
- Wrought iron fencing of the type documented in Appendix “D”

Replacement or Installation (new elements/materials typically used in current practice)

- Paved outdoor areas (e.g., school yards or parking areas)
- In-ground utilities in existing utility trenches
- Play equipment and safety surfacing
- Site-installed mechanical equipment (e.g., emergency generator, MEP units)
- Lighting at athletic fields
- Open bleachers at athletic fields
- New schoolyard fencing not visible from the sidewalk at the main building entrance
- Gas meter rigs and enclosures
- RPZ enclosures placed on non-street facing facades

II. Exterior

Repair or Replacement-in-kind (to “match” existing historic elements):

- Repainting of previously painted exterior masonry

Note: Work items in all of the categories are exempt on the condition that no trim or architectural features are altered, and that no ground disturbing work is proposed that will exceed the depth of previous undisturbed soil or will go beyond the bounds of the ground disturbance from the original construction

- Masonry restoration on the condition that the specification in Appendix B is used.
- Masonry cleaning on the condition that the specification in Appendix C is used.
- Masonry repair and repointing on up to 50% of a building, on the condition that the specification in Appendix B is used.
- Surface materials on pitched roofs
- Window guards
- Coping stones
- Flat roofs, roof hatches, roof drains, and mechanical equipment
- Exterior door hardware

Replacement or Installation (new elements/materials typically used in current practice)

- Non-original windows replaced with aluminum windows, on the condition that the replacement windows provide a close match to the configuration and historic profile of the original windows conform to SCA standard replacement window, programmatically accepted by OPRHP (e.g., aluminum frame with historic profile in lieu of wood). When window replacement is proposed for any State/National Register listed schools retaining any historic windows, the project must be submitted to OPRHP for review.
- Non-decorative exterior hollow metal doors
- Recaulking of coping stones
- Video surveillance cameras, fire alarm, intrusion alarm, alarm bells and strobes
- Security lighting when fixtures are not mounted directly to masonry
- Lightning protection
- Gas meter rigs and enclosures – required by Federal regulations to be outside
- RPZ enclosures where impossible to place inside and placed on non-street facing facades– required by Department of Environmental Protection
- PV panels placed on the roof below the parapet level not visible to the public

III. Interior

Repair or Replacement-in-kind (to “match” existing historic elements):

- Plaster ceilings
- Wood flooring in gymnasiums
- Wood floors and wood moldings
- Wood doors, jambs and trim facing a corridor
- Architectural and other elements in significant spaces with historic elements (e.g., certain lobbies, auditoriums and libraries)

Replacement or Installation (new elements/materials typically used in current practice)

- Auditorium seating, curtains, draperies, stage rigging and lighting
- Corridor lockers
- Toilet room fixtures, partitions, and finishes
- Kitchen equipment
- Elevator retrofits

Note: Work items in all of the categories are exempt on the condition that no trim or architectural features are altered, and that no ground disturbing work is proposed that will exceed the depth of previous undisturbed soil or will go beyond the bounds of the ground disturbance from the original construction

- Interior Painting
- Non-original materials and components
- Inappropriate or unsalvageable wood flooring
- HVAC, electrical, low voltage and plumbing fixtures and devices, throughout the building except for in significant spaces with historic elements (e.g., certain lobbies, auditoriums and libraries)

Note: Alterations and renovations of school spaces may be necessary to meet the curriculum needs of a school. This work should follow the directives above.

IV. Mechanical Systems (HVAC)

Replacement or Installation of MEP and HVAC systems and components other than in original libraries, auditoriums and lobbies where historic character could be impacted.

V. Health & Safety Hazards

Replacement or Installation:

- Materials and components potentially injurious to health
- Installation or replacement of systems and signage as required by Code
- Emergency work to address potentially hazardous conditions, interior and exterior

Note: Work items in all of the categories are exempt on the condition that no trim or architectural features are altered, and that no ground disturbing work is proposed that will exceed the depth of previous undisturbed soil or will go beyond the bounds of the ground disturbance from the original construction

A Programmatic Agreement
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

APPENDIX "B"
Masonry Restoration Specification for Historic Buildings
Dated 05/31/19

(Future revisions that don't alter the context of the standard or that are more stringent than the current standard will not be required to be resubmitted for agreement)

A Programmatic Agreement
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

APPENDIX "C"

Masonry Cleaning Specification for Historic Buildings

Dated 01/02/07

(Future revisions that don't alter the context of the standard or that are more stringent than the current standard will not be required to be resubmitted for agreement)

A Programmatic Agreement
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

APPENDIX "D"

Typical school wrought iron fence per SCA Standard details.

A Programmatic Agreement
between the
New York State Office of Parks, Recreation and Historic Preservation
and the
New York City School Construction Authority on behalf of the
New York City Department of Education

APPENDIX "E"

Energy-efficient projected windows used to meet the energy and carbon saving requirements of various New York City local laws that are designed to match the historic double-hung window appearance are acceptable for window replacement under the conditions described in Item II of Appendix A. Refer to proposed energy efficient window details dated 07/15/20.